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BEFORE THE

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Federal Communications Commission

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WASHINGTON, D.C. 20554

II. JACKALOPE'S SUPPLEMENTAL FILING IS UNTIMELY.

Indeed, Jackalope's attempt to supplement the record is itself untimely and improper. Unlike the situation in Patterson, California, 7 FCC Rcd 1719, 1719-20 & n.1 (Alloc. Branch 1992), a decision relied upon by Jackalope, this is not a case where the extra-record material is intended directly to facilitate the ultimate resolution of the proceeding. Instead, it appears simply to be an attempt by Jackalope to have the last word. As such, it is barred by Section 1.415(d). See, e.g., Newnan and Peachtree City, Georgia, 7 FCC Rcd 6307, 6307 n.1 (Alloc. Branch 1991) (post-reply comment deadline pleading rejected as violative of proscription of Section 1.415(d)). The Commission should therefore deny Jackalope's motion for leave to file supplemental comments.

III. JACKALOPE'S SUPPLEMENTAL COMMENTS DO NOT ADDRESS THE SUBSTANTIVE CONCERNS RAISED BY THE JOINT LICENSEES.

Turning to the substantive issues raised by Jackalope's Supplemental Comments (assuming the Commission decides to consider Jackalope's supplemental filing on its merits), the Joint Licensees point out that Jackalope does not contest the Joint Licensees' showing that Cheyenne, Wyoming is economically distressed or that the addition of a new commercial FM service to the market would present ruinous competition. In fact, by evading the issue entirely, Jackalope effectively confirms that

the Cheyenne market cannot support another commercial radio service.

Instead of challenging the Joint Licensees' economic argument, Jackalope asserts that the Joint Licensees' concerns are mooted by the fact that Jackalope intends to affiliate with a religious broadcasting network, and therefore not compete with existing stations for listeners and revenues. Jackalope Supplemental Comments at 2. Unfortunately, this claim, even if now true, makes no sense as a matter of law.

FM Channel 285A is a non-reserved band (i.e., commercial) FM channel. If Jackalope decides either not to apply for the channel or if it applies for but ultimately is not awarded the channel in the face of competing applications, the prevailing applicant would be free to establish a commercial service on the new channel. Indeed, there would be no bar to Jackalope's establishment of a commercial service if it prevails (irrespective of the intentions expressed in its supplemental comments) or to Jackalope's transfer or assignment of the station authorization to a commercial broadcaster in the near or distant future.

In short, Jackalope has not presented any reason why the Commission should not reject the proposed allocation, as the Joint Licensees have urged. The Joint Licensees are left only to wonder why, if Jackalope is sincerely interested in establishing a noncommercial educational FM service in Cheyenne, it did not

apply for a channel in the reserved band (i.e., on an FM channel between 201 and 220) and thus avoid the allocation rulemaking process entirely.

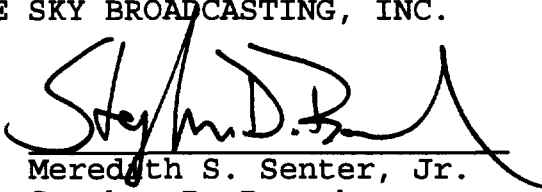
IV. CONCLUSION

For the reasons cited above and in the their Joint Reply Comments, the Joint Licensees urge the Commission, if it elects to consider Jackalope's Supplemental Comments, to reject the claims proffered by Jackalope. The Commission should instead examine the effect that a new commercial FM station will have on the economic viability of the existing stations in the Cheyenne, Wyoming radio market, and reject the proposed allocation of FM Channel 285A to Cheyenne as economically infeasible.

Respectfully submitted,

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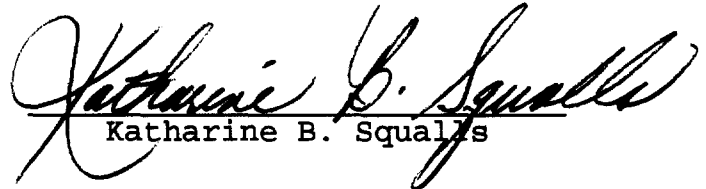
June 8, 1993

Their Attorneys

CERTIFICATE OF SERVICE

I, Katharine B. Squalls, hereby certify that a true and correct copy of the foregoing "Joint Response to Motion for Leave to File Supplemental Comments and to Supplemental Comments" was sent by first-class postage prepaid mail this 8th day of June 1993 to the following:

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